

The examiner has rejected this claim on the basis that the prior Wallin patent discloses this feature. This feature is specifically, quoting the claim: "edges of the sheet material... are interrupted from alignment in a straight line so as to reduce the tendency for cracks to proliferate in the wall portion."

There is no disclosure of such a feature in the prior Wallin patent. The embedment of the sheet material for the flange forms into the wall panel portion is described as follows in that reference:

"In FIG. 17, a panel with the flange form 30 according to the invention is shown. This variant of the form 30 is a sheet material, such as galvanized sheet steel, bent to a "U"-shaped cross-section with the legs 36 of the "U" embedded in the panel 1 at the time of casting the panel 1. The form 30 has a hollow core 31."

The examiner is mistaken to suggest that the features of claim 28 concerning the interruption of the edges from a straight line are referenced in the earlier Wallin patent. It would be wrong to reject this claim on such a basis.

**Claim 30** a plurality of panels assembled to form a building wall with footing forms aligned to provide continuous, interconnected, covered footing volumes, amended to provide that the forms are connected to each other and remain as reinforcement after being filled

The examiner has rejected this claim on the basis that prior Wallin discloses adjacent members for creating a continuous wall and Schultz discloses interconnected covered footing volumes. This claim has been amended to provide that such forms, because they remain with the wall portion once the footing volume has been filled with binder material as stipulated in claim 21, remain enclosing the poured footing and serve as reinforcement. In Schultz the forms are removed and do not remain to serve as reinforcement. This distinguishes the claim from the prior art.

**Claim 31** Referring to claim 30 a trough form mounted along the top end of the wall portion defining a trough volume and the wall panels define a closed perimeter building wall.

The examiner has rejected this claim on the basis that prior Wallin discloses a trough form mounted along the top of multiple panels forming a wall. The applicant relies on the dependency of this claim on claims 30 and 21 for its patentability, along with the additional limitations that it includes.

**Claim 32** Referring to claim 31, reinforcing couplings seated in and protruding from the wall portions into said footing volumes to position and support reinforcing rod amended to add wire along the top and to serve as lifting loops.

The examiner has observed coupling means to support reinforcing bar are showing in the prior Wallin patent. This claim has been amended in a manner similar to claim 24 to stipulate for the presence of couplings in the form of wire anchored into the side of the wall panel along the top end of the wall panel to serve as lifting loops. As referenced previously support is present in paragraph [0077]. Such a feature is not shown in the prior art.

**Claim 33** Referring to claim 32 having vertical half-flange forms, the outer edge of at least one of said half-flange forms having at least portions of its surface extending to overlap and permit coupling to an adjacent half flange form.

The examiner has cited Figure 1 of the prior Wallin patent is showing the above features. In fact, the prior Wallin patent describes figure 21 as follows:

"In FIG. 21 an alternate format of form 30A are mounted along the edges of the panels 1 so that, when the panels 1 are abutted, a closed volume 41 is created. The half-forms 30A have panel-embedded edges 36 as in the other embodiments. The opposite longitudinal edge of the half-form 30A has an inwardly-bent, free-end flange 42. The free-end flanges 42 of abutting forms 30A will become embedded in the filler to be placed in the interior volume 41 of the combined forms 30A.

To hold the half forms 30A in place together while the binder (not shown) is being poured, a wooden nailer strip 43 is attached to the inner faces of the adjacent half-forms 30A. This strip 43 can be attached on-site to the half-forms 30A once the panels are in place by means of sheet metal screws 44. Such strips 43 may alternately be pre-attached to one of the form 30A for convenience of delivery and eventual assembly."

There is no reference to:

"the outer edge of at least one of said half-flange forms having at least portions of its surface extending to overlap and permit coupling to an adjacent half flange form when two of said wall panels with half flange forms are abutted together,"

as stipulated in claim 33.

Accordingly, there is no basis for the examiner's rejection of claim 33.

The applicant will rely on the patentability of claim 21 to support the patentability of claims 37-40 as well the additional features added by these claims.

#### Further prior art - Claims 29, 34, 35, 36

The foregoing claims were rejected based on the simple combination of the prior Wallin reference plus Schultz. The following claims were rejected on the basis of those references

plus additional references: 29 (+ Walston US 4,512,126); 34 (+ House US 5,588,786); 35 (+ House US 5,588,786 and + Babcock US 6,256,960); 36 (+ Betzler US 1,834,892).

The applicant will now address those specific claims.

**Claim 29** A beam support post form with an upwardly extending open volume adjacent the wall panel for receiving binder material.

The Examiner has rejected claim 29 under 35 USC 103 on the basis of Wallin, Schultz and Walston, US 4,512,126. This claim addresses a beam support post. Walston addresses precast forms. The examiner supports her rejection by saying that it is notoriously common to have a: "wall panel post notch to accommodate attachment of the beam", citing a beam support post from Walston. But the present invention does not propose to provide a unitary wall panel with a beam support post form therein.

There is no suggestion in Walston of providing a wall with a form thereon that permits the pouring of a beam post at the same time that the flange form is filled with binder material. Claim 29 specifically provides for:

"...a beam support post form fitted to said wall portion, said beam support post form being notched at its upper end, below the top end of the wall panel, to receive the end of a beam, and providing an upwardly extending open volume adjacent said wall panel for receiving binder material."

All of the underlined elements are characteristic of a form. This feature is in addition to the fact that claim 29 is dependent on claim 21. It is not seen how the examiner can conclude that the differences between the subject matter of claim 29 and the prior art as cited are such that the "subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

On this basis, it is submitted that claim 29 is patentably distinguishable over the prior art.

**Claim 34** Referring to claim 30, a precast corner piece positioned abutting adjacent half-forms at a corner plus a joiner piece connecting the half forms to provide a vertical cavity that communicates with the footing volume

Claim 34 has been rejected under 35 USC 103 on the basis of Wallin, Schultz and House, US 5,588,786. Claim 34 is also dependent on claim 21 which is shown to be patentable. Claim 34 adds:

"34. A building wall as in claim 30 comprising two wall panels meeting at an angle and further comprising a corner piece having vertical faces shaped to abut the vertical side edges of adjacent wall panels, said adjacent wall panels having vertical half-forms mounted along said abutting vertical side edges and further comprising a joiner piece for joining said respective half-forms, the corner piece, vertical side edges of adjacent wall panels, vertical half-forms and joiner piece defining a vertical cavity that communicates with the footing volume for receiving binder material."

In respect of claim 34 House does show a corner piece. But House does not suggest that: "the corner piece, vertical side edges of adjacent wall panels, vertical half-forms and joiner piece define a vertical cavity that communicates with the footing volume for receiving binder material" as provided in claim 34. House does not contemplate the presence of a footing form nor even a continuous footing underlying his wall.

The presence of a vertical cavity that communicates with the footing volume as in the present invention provides a substantial benefit in allowing a building wall based thereon to have a continuous frame support at the corners that will distribute load over an extended footing that underlies the walls meeting at the corner.

The examiner asserts that element 112 in Figure 7 constitutes a joiner piece and defines a vertical cavity. However, claim 34 in its entirety stipulates for:

34. A building wall as in claim 30 comprising two wall panels meeting at an angle and further comprising a corner piece having vertical faces shaped to abut the vertical side edges of adjacent wall panels, said adjacent wall panels having vertical half-forms mounted along said abutting vertical side edges and further comprising a joiner piece for joining said respective half-forms, the corner piece, vertical side edges of adjacent wall panels, vertical half-forms and joiner piece defining a vertical cavity that communicates with the footing volume for receiving binder material.

The examiner would have the extensions from the wall panels, 88, 108, stand for the corner piece. The examiner would then use the element 112 to represent the joiner piece. But claim 34 makes it clear that the corner piece of the claim is an independent "piece" because of the very nature of this word. It has vertical faces shaped to abut the vertical side edges of adjacent wall panels. Elements 88, 108 which are extensions of the wall panels cannot meet this stipulation.

Additionally, claim 34 stipulates that the joiner piece is for joining the respective half-forms, a structural requirement not met by element 112 of House.

With all of these accumulated distinctions, it is respectfully submitted that claim 34 should not be rejected on the basis of obviousness.

**Claim 35** Referring to claim 34, a flanged positioning plate beneath the corner piece

The Examiner has rejected Claim 35 under 35 USC 103 on the basis of prior Wallin, Schultz, House and Babcock, US 6,256,960. The very fact that the examiner is endeavoring to assemble for prior art references argue strongly against the obviousness of this combination.

Claim 35 addresses a positioning plate positioned at the corner where two walls meet to align the corner piece of claim 34. Claim 34 is also dependent on claim 21 which is shown to be patentable. Claim 35 provides for:

"....at least one positioning plate with upwardly bent plate flanges for positioning beneath and aligning said corner piece, said plate flanges embracing portions of the base ends of said respective abutting wall panels."

Accordingly, a plate is provided which embraces portions of the base ends of two respective abutting wall panels, as well as the corner piece, holding the two walls in alignment with each other and the corner piece.

Babcock states:

"At each corner of the building, angularly abutting pieces of the lower track 13 are cut on the building site to fit so they will meet in flush engagement, as shown in FIG. 3. Material remaining after the cutting, such as ears 17, may be bent upwardly, out of the way."

This does not describe a plate which embraces portions of the base ends of both of two abutting wall panels. Rather, it addresses two alignment tracks that underlie respective walls. These tracks merely abut at the corner. The examiner refers to the flanges 16 as being present in Babcock. These flanges are present on the separate tracks positioned beneath each independent wall. But there is no single piece present which includes upwardly bent plate flanges which embrace portions of the base ends of the two abutting wall panels.

Accordingly, Babcock does not add the element stipulated in claim 35. On this basis as well as its dependency on claims 34 and 32 and 30 and 21, claim 35 should be allowable.

**Claim 36** referring to claim 30 a multi-tiered wall of panels having troughs and footings one above the other

Claim 36 has been amended to remove the word "overlying" which the examiner used for a 35 USC 112 objection. Without arguing whether the examiner is reading too much into the word "overlying", the applicant has substituted "positioned adjacent and above" which is clearly supported by the disclosure.

Claim 36 has been rejected under 35 USC 103 on the basis of Wallin, Schultz and Betzler, US 1,834,892 with the assertion that it would have been obvious from these references to form a multi-tier wall as specified in claim 36. Claim 36 is also dependent on claims 30 and 21 which have been shown to have inventive character over the combinations as recited by the Examiner. Further claim 36 adds the multi-tier function in the context of the additional structural features of trough and footing forms which are filled in situ, as opposed to Betzler which does not suggest such features.

36. (Currently amended) A building wall as in claim 30 wherein said wall panels are serving as the first tier in a multiple-tiered wall, in combination with a second building wall as in claim 30 to form a second tier for said multiple tiered wall, and wherein the wall panels of each tier comprise a trough form mounted along the top end of the wall portion defining a trough volume that communicates with said flange form volumes for receiving binder material at the same time that the flange and footing forms are being filled with binder material, said second building wall being positioned above said first building wall with the footing forms of wall panels of the second tier overlying positioned adjacent and above the trough forms of the wall panels of the first tier of wall panels

The examiner has not provided any specific references showing correspondences between elements in Betzler and elements in the present invention. Without such guidance, the applicant cannot make further comments as to why with the differences between claim 36 (with all of its dependencies) and Betzler claim 36 should be subject to the bar of 35 USC 103.

It there is therefore submitted that claim 36 should not be rejected on the basis of obviousness.

#### **Obviousness type double patenting rejection**

The examiner has rejected claims 21-25, 28, 30-33, 37-40 on the basis of an obviousness-type objection over the prior Wallin patent. This is a redundant objection. The prior Wallin patent had been published more than one year prior to the applicant's filing date for the present invention. It's unnecessary to make an obviousness-type double patenting objection when objections have been made under section 103.

In all events, the applicant adopts by reference all of the submissions made in respect of section 103 in response to the obviousness-type double patenting rejection. Accordingly, it is submitted that claim 21 and all further claims dependent thereon are not obvious in view of the prior Wallin patent and are therefore not susceptible to an obviousness-type double patenting rejection.

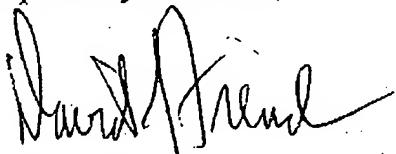
Further, the applicant submits that since the disclosure under 35 USC 112 of the prior Wallin patent wouldn't support claim 21 herein, it is not appropriate to issue an obviousness-type double patenting objection. The applicant could not have advanced claim 21 based on the disclosure of the prior Wallin patent. Therefore such a rejection is not justified.

**Conclusion**

The claims have been revised and the Examiner's observations and rejections have been addressed. It is believed that this application addresses patentable subject matter and is in form for Allowance. Reconsideration and a favorable ruling that will allow this application to advance to grant is therefore requested.

Again, the applicant wishes to thank the examiner and her supervisor for the interview held with the applicant/inventor. The applicant now therefore looks forward to receiving the communication indicating that this application is allowable.

Respectfully submitted,



David J French  
Registered agent for the applicant  
Registration 31229

418 Parker Street  
Gatineau, Quebec  
Canada J9H 4P5  
Tel: 1-819-684-3025  
Email: [dfrench@101truths.com](mailto:dfrench@101truths.com)